

RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES SALES TAX EXEMPTION

In Council Chambers

Held 6131 Taylorsville Road March 8, 2022

1. Call The Meeting To Order - Mayor Jeff Gore

The Huber Heights City Council met in a Special Session on March 8, 2022. Mayor Jeff Gore called the meeting to order at 7:38 p.m.

2. Roll Call

Present: Richard Shaw, Kathleen Baker, Mark Campbell, Nancy Byrge, Glenn Otto, Ed Lyons, Anita Kitchen, Don Webb, Jeff Gore

3. New Business  
ADMINISTRATION

Bryan Chodkowski, Interim City Manager

- A. A Resolution Authorizing And Directing The Clerk Of Council To Schedule A Joint Work Session Meeting With Bethel Township, Miami County For The Purposes Of Discussing Annexation. (first reading).

Interim City Manager Bryan Chodkowski said in follow up to the last City Council Meeting there were questions and concerns brought to his attention; and in discussions with some members of Council, it was requested this resolution be brought forward and considered by Council in advance of any other action by Council on annexation.

Mayor Gore asked for a motion to adopt Item 3-A to direct Clerk of Council Anthony Rodgers to schedule a joint meeting with Bethel Township and Miami County for the purpose of discussing annexation.

Mr. Campbell moved to adopt; Mrs. Byrge seconded the motion.

Mr. Otto asked what guarantee Council would have that this meeting would take place, as Council had already given the Clerk of Council direction to schedule a meeting in the past, which he did, and without direction from Council to cancel the meeting, it was cancelled.

Mayor Gore said this item is a formal resolution directing Anthony Rodgers to schedule the meeting.

Mr. Shaw said the resolution states the meeting would be set at the earliest date and time to accommodate a quorum. He said the resolution does not state the meeting will be set by a certain date. He said his fear with this resolution is the meeting could be scheduled on January 23, 2023. He said Council has seen how scheduling conflicts go, as Council has not had a joint meeting with the Huber Heights School Board in three and a half years. He asked what provisions are in the resolution that state the meeting will be set sooner rather than later.

Mr. Campbell asked Mr. McDonald if the resolution can be amended to set a date of within the next thirty days.

Mr. McDonald said there is a pending motion which would need to be withdrawn, and then Mr. Shaw could make a motion to amend the resolution.

Mr. Campbell withdrew his motion to adopt and then made a motion to amend the legislation to state the meeting will be scheduled within thirty days. Mr. Otto seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 8-0.

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6131 Taylorsville Road

March 8, 2022

Held

Mr. Campbell made a motion to adopt; Mr. Shaw seconded the motion. On a call of the vote, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, and Ms. Baker voted yea; none voted nay. The motion passes 8-0.

Mr. Rodgers said the only issue with the definitive date is recognizing he will put an email out to Council tomorrow seeking availability for that meeting, but the City does not control the actions of the Bethel Township Trustees. He asked Council to be aware that the limitation may work against others' schedules.

Mayor Gore said location should also be discussed as that was an issue last time. He said Council needs to decide where to hold the meeting that has a large enough space. He said the Council Chambers at City Hall would be an appropriate place.

Mr. Shaw said he would suggest the Huber Heights YMCA as it is a middle ground location and an equal drive for all parties.

Mr. Rodgers said there would be no access to the City's streaming and recording capabilities.

Mr. Shaw said people have access to Facebook Live and the meeting can be streamed on to the City's website as the previous City Manager had done before.

Mayor Gore asked Mr. Rodgers if Facebook Live meets the City's obligation.

Mr. Rodgers said the City is not required to record the meeting, the meeting just has to be open to the public.

Mr. Webb asked Mr. McDonald what happens with this legislation if the meeting is not scheduled within thirty days.

Mr. McDonald said the legislation would be brought back and amended to however long it is going to take to schedule the meeting.

Mrs. Byrge asked if spring break will be coming up and if it could affect this meeting.

Mayor Gore said spring break would be at the tail end of this time frame.

Mr. Shaw said the Bethel Township Trustees have been eager to state they would even show up at the next Council Work Session and he does not think their schedules will be an issue.

Ms. Baker said the City could host the meeting.

Mayor Gore said last time, there was difficulty settling on a place to have the joint meeting. He said if this meeting is going to move forward, Council has to be flexible on where the meeting is to be held.

Mr. Otto said he agrees with Mr. Shaw and he does not think the Bethel Township Trustees will have much of an issue with scheduling. He said as far as the location goes, whatever would accommodate a large group would be great. He said the Council Chambers may not be conducive. He said he does not care where it is as long as there is enough space and everyone is comfortable.

Mayor Gore said Council will leave that detail to Mr. Rodgers, but he asked Mr. Rodgers to come back to Council with a potential location for the meeting for Council to agree upon.



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Mr. Rodgers said he will start tomorrow by reaching out to Council regarding availability, and then reach out to Bethel Township to see which dates work for availability on that side, and then discuss potential locations.

- B. A Resolution Adopting A Statement Indicating The Services The City Of Huber Heights, Ohio Will Be Providing To The Territory Proposed To Be Annexed To The City Of Huber Heights Pursuant To A Petition Filed With The Board Of Commissioners Of Miami County By Landowners (As Defined Below) And As Provided By Ohio Revised Code Section 709.023.. (first reading)

Mr. Chodkowski said there were a lot of questions and concerns brought to his attention following the last time this matter was brought before Council. He said it was his understanding based on the dialogue he was part of and the dialogue between members of Council, that there was the possibility that this matter had the potential for reconsideration.

Mrs. Kitchen moved to reconsider the resolution in Item 3-B; Mr. Campbell seconded the motion.

On a call of the vote, Mrs. Byrge, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; Mr. Otto and Mr. Lyons voted nay. The motion passes 6-2.

Mayor Gore said next there would need to be a motion to amend the resolution with some amendments presented by the Interim City Manager.

Mr. Chodkowski distributed an amended resolution for Item 3-B. He said in conversations with members of Council, there was a concern that the initial presentation of the legislation was too definitive. He said this matter is a process, and ultimately, in the end, when the process is about to conclude, the last particular item of that process is the City's decision to accept or reject the annexation, even if the petition to the Miami County Commissioner is found to have met all the requirements. He said the City still has an opportunity to accept or reject the annexation or to further condition the acceptance of the annexation. He said the request was to provide language or update the language in the resolution to demonstrate that this matter is still a process and there is still a choice. He said in the event the petition is certified by Miami County, that is not a sure thing and the City still has a choice. He said two language corrections were made in the declarations and he presented the amended resolution for Council review.

Mrs. Byrge moved to amend the resolution as proposed by Mr. Chodkowski; Ms. Baker seconded the motion. On a call of the vote, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; none voted nay. The motion passes 8-0.

Mr. Campbell moved to adopt; Ms. Baker seconded the motion.

Mrs. Byrge asked Mr. McDonald what the legal ramifications are if this annexation comes to Council and it is rejected.

Mr. McDonald said Council has the right to accept or reject the annexation under Section 709.04 of the Ohio Revised Code.

Mrs. Kitchen asked what services the City would be providing. She said she was not comfortable with the water and sewer, and she wants it stated publicly how those services will be handled.



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Mr. Chodkowski said this service letter does not include public utilities for water and sewer. He said storm sewer would be a possibility under this legislation. He said, unlike with the Carriage Trails Subdivision, Bethel Township has constructed its own public water system since that time and has constructed public wastewater infrastructure and is within its own Facilities Planning Area (FPA). He said Bethel Township has the right to provide these services, and the City cannot provide these services unless Bethel Township allows the City to do so. He said the City of Huber Heights does not intend to provide these services under this legislation. He said these services might be something the City would negotiate in the future under a separate agreement.

Mrs. Kitchen asked what the process is to get to where this matter is all approved.

Mr. McDonald explained the annexation process. He said annexation is primarily a county function. He said a petition is filed with Miami County and then the City has an initial obligation within twenty days to pass the statement of services letter. He said the annexation goes to Miami County as a Type II annexation, as one in which the property will not be taken out of the township, and the township will receive taxes and the City will receive taxes. He said the annexation goes before the Miami County Commissioners and if this annexation meets the list of criteria, Miami County has to approve it. He said the annexation would then come back to the City, and after sixty days, the City has one hundred and twenty days to approve or reject the annexation.

Mr. Chodkowski said there is a process that allows the City and Bethel Township to negotiate terms and conditions in which Bethel Township would release its territorial claim, making the residents not multi-jurisdictional.

Mrs. Kitchen asked if this annexation goes through, is it possible for the City to have a moratorium on annexations north of State Route 40.

Mr. Chodkowski said if that is the policy consent of Council and of Bethel Township, that could be a condition in an annexation agreement.

Mrs. Kitchen asked about the 2008 agreement when Carriage Trails first came into play and how that agreement comes into play with this service agreement.

Mr. Chodkowski briefly discussed the Benchrock development and how DEC resurrected that project. He said that agreement defines the terms of a partnership between the City and DEC about who would assume certain responsibilities and how the parties would be compensated in that role in the partnership. He said in this instance, the City is not involved in negotiations with DEC regarding a development agreement. He said it is not uncommon for the City to be involved in development agreements for economic development. He said he was not aware DEC had an interest in participating in a development agreement at this time. He said DEC may approach the City about a development agreement. He said that development agreement is not a requirement of the annexation and it is not part of the annexation.

Mrs. Kitchen said if this annexation goes through, she would want to have a serious talk about a moratorium on annexations north of State Route 40 and she would like to get something in place for the next Council Work Session.

Mayor Gore said that discussion would be part of Council's due diligence process or a discussion in the joint meeting with Bethel Township.

Mr. Chodkowski said it is his understanding that the intent of the joint meeting would be for both parties to talk about whatever their concerns or whatever their



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interests are in respect to this project. He said that meeting would be an opportunity for all of these concerns and issues to be aired publicly so everyone can hear those concerns and then both parties can put together a negotiating team, enabling both parties to get to a potential agreement sooner rather than later.

Mr. Shaw thanked Mrs. Kitchen for bringing this motion to reconsider this item back up so additional public discussion could occur. He asked Mr. Chodkowski why the September 13, 2021 services agreement annexation letter included water and sewer and this letter does not.

Mr. Chodkowski said at the time of the initial letter back in September, he was not privy to the discussions and conversations and he cannot comment on why the letter did or did not contain the information. He said when the City was contacted and advised that this letter would be forthcoming and that the petition would be resubmitted to Miami County, he said he reached back out and was advised that Bethel Township had provided that infrastructure, and as a result, the City would not be able to provide these services under this service letter.

Mr. Shaw asked if Mr. Chodkowski has learned since then or prior to that time that the Miami Valley Regional Planning Commission (MVRPC), as the facilitator of the facilities' boundary lines within the area that is being observed, are denying the changes to the boundary lines until both parties come to an agreement.

Mr. Chodkowski said he was not aware of that information.

Mr. Shaw said there was a meeting that took place in July, 2020 with the previous City Manager. He said he believes that communication was re-introduced to Council recently that the MVRPC is not comfortable giving its blessing on moving forward with the boundary lines for the utilities because Huber Heights and Bethel Township have not come to an agreement on this annexation. He asked Mr. Chodkowski if he is able to make any comments on the status of Tri-Cities and the capacity it has at this time with respect to ability or volume. He said since the last review of Tri-Cities, there have been five additional housing developments in the City of Huber Heights, including additional businesses. He said during the last review of Tri-Cities, north of I-70 was close to 80 percent capacity. He said this Council should be cognizant of its agreement with Tri-Cities and the capacity therein. He asked if Tri-Cities' capacity would preclude a large development of this nature.

Mr. Chodkowki said, having only served on Tri-Cities for three months, he is aware the plant is approaching capacity. He is also aware all of the cities have been notified and need to begin planning the expansion of that facility and are in the process of preparing a briefing for all members of the Tri-Cities Board. He said, based on the information he has related to Tri-Cities, it intends to expand the plant to accommodate for future growth, and in the event the City wants to service this particular subdivision, the plant would be designed to include the appropriate capacity. He said if Council and Bethel Township came to terms that the City would take on the service for that subdivision, he would say yes in the immediate term - the City would have the ability to provide service capacity at Tri-Cities because the plant will evolve in the next several years to accommodate for the volume which is how that development would expand over time. He reiterated the service agreement does not include service utilities from the City of Huber Heights. He said this legislation excludes providing utility services to this particular area regardless of whether MVRPC has certified or not certified the pending FPA agreement.



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GOVERNMENT FORMS & SUPPLIES 847-521-3336 FORM NO. 10-114

In Council Chambers

Held 6131 Taylorsville Road March 8, 20 22

Mr. Shaw asked if City Staff would be willing to amend the resolution to include in Section One that Bethel Township will take care of water and sewer services for this area.

Mr. Chodkowski said that is a policy decision for Council to make.

Mr. Shaw said he knows there is a first and second for the motion to adopt on the table, but he was not provided the amended resolution prior to tonight's meeting. He said he does believe adding that information is important. He said he knows Bethel Township was approached recently about additional annexations, and the two proposed developments were not annexed but did go forward. He said it would provide the resident capacity for Bethel Township to become a charter city. He said moving this item forward would negate the future possibility for Bethel Township to become a city.

Mr. Rodgers said either the motion needs to be withdrawn or Council should proceed with the vote on the motion to adopt.

Mrs. Kitchen asked if the vote fails, can Council add the water and sewer information to the resolution and redo the vote?

Mr. Rodgers said if this motion fails, it is done.

Mr. Campbell asked Mr. McDonald if the legislation talks about Bethel Township providing water and sewer services.

Mr. McDonald said it does not and the City does not know if Bethel Township can provide sewer and water services.

Mr. Chodkowski said he assumed that issue would be one of the topics covered in the negotiations. He said Bethel Township publicly admitted it has put forth the infrastructure as an incentive to limit the interest in annexation. He said if Bethel Township has the ability to provide the services, it would want to provide the services. He said it is Bethel Township's services to give up to the City, not the City's services to take. He said even if Council put these services within the City's agreement as something the City could provide, Bethel Township would still have to agree to allow the City to provide the services. He said everything was negotiable and he offered examples.

Mr. Shaw said he misspoke earlier when he said the water and sewer services would not be provided by Bethel Township, the services would be provided by Miami County.

Mr. McDonald said this legislation is a statement of what services the City of Huber Heights is going to provide, not what services anyone can, may, or may not provide. He said it would be improper to put in the legislation that someone else will provide the services. He said Council should concentrate on what services the City will provide.

On a call of the vote, Mrs. Kitchen, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mr. Lyons, Mr. Shaw, and Mr. Otto voted nay. The motion passes 5-3.

13. Executive Session

There was no need for an Executive Session.

14. Adjournment

## Meeting

March 8, 2022

Date \_\_\_\_\_